IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2829 OF 2004.

The Bombay Diocesan Trust Association
Pvt. Ltd. & Ors. .. Petitioners

versus

The Society of the St. Peter High School
Panchgani, Dist: Satara,
Maharashtra ..Respondent.

Shri Shirish Pitre for the Petitioner

Ms. Sheetal M. Kumar, i/b. Milan Bhise & Co. for the Respondent

Coram : S.R.Sathe, J.
Dated : 30th Jan, 2006

P.C.

1. Heard both the learned Advocates. Perused the papers.

2. Petitioners, the original defendant in Special Civil Suit No.141 of 2002 have challenged in this petition the order passed by the learned Joint CJSD, Satara, whereby he held that Civil Court has jurisdiction to try the said suit.

3. The learned Advocate for the petitioners submitted that the plaintiff had in fact raised objection before the Charity Commissioner in the

proceeding filed under Section 36 of the Bombay Public Trust Act and the said objections have been rejected by the Charity Commissioner and the suit filed by the plaintiff was with a view to give go by to the order passed by the Charity Commissioner.

4. The learned Advocate for the petitioners submitted that the trial court had infact not given any opportunity to defendants to advance their arguments on the point of jurisdiction. However, bare reading of the order passed by the trial judge indicates that both the learned Advocates advanced their arguments at length and the same has been considered by the trial judge. There is no substance in the argument advanced by the petitionrr in this behalf.

5. The only point before the trial judge was whether the suit as filed by the plaintiff was maintainable in the civil court or not. It is needless to say, while determining the question of jurisdiction of the court one has to see the averments in the plaint and the relief claimed by the plaintiff. Considering this it is very clear that the suit filed by the plaintiff was for declaration and consequentional relief of permanent

injunction restraining the defendants from obstructing plaintiff’s possession and enjoyment over the suit property. So, the suit filed was clearly of civil nature. So from that aspect the court was justified in holding that the civil court has jurisdcition to try the said suit. There is no error of law in the order passed by the learned trial judge. Hence, there is no necessity to interfere with the said order in this petition filed under Article 227 of the Constitution of India. In this view of the matter, the petition is rejected.

(S.R.Sathe, J.)